

Dear FCC:

I am writing with respect to your consideration of opt-in vs. opt-out mailing lists and electronic mail.

I urge you to most strongly consider requiring opt-in systems. I have been a user of the internet for almost 15 years (yes, fifteen) and have seen both systems used in a variety of circumstances. Without exception, opt-in systems lead to less confusion, less consumer abuse, and better customer relations for sellers.

Opt-out mailing requires both sender and receiver to know what address was used when sent. For example, I have several addresses which are visible on the internet, all of which forward to a common point. Since unsolicited commercial email almost includes the address used on their mail, it becomes extremely difficult for me to find just what address was used and have it removed. One solution might be to request removal of all my addresses, but this historically causes two problems:

- o The sender rejects my request to remove addresses which (to him) appear to be other people;
- o Some unscrupulous senders use such group requests to find valid addresses. Not only do they begin mailing to the other addresses as well, they sell them to others for further unsolicited email. As a result, I now receive four or five copies of various unsolicited mail.

Thus not only does opt-out not work, it becomes the source of even more unsolicited email.

On Sept 28, 2001 the Council of Ministers for the European Union has agreed to ban unsolicited commercial electronic mail. The great bulk of this mail comes from sources which do not use an opt-in system. This ban will effectively require opt-in mail, a reversal of an earlier plan (June 2001). That decision immediately came under heavy consumer fire.

In February the EC released data which calculated the current cost to consumers for unsolicited email to be \$8.54 billion dollars (\$10B ECU). This mail is sent at little or no cost by companies to every address they can lay their hands on. The consumer, by contrast, pays for his bandwidth, his disk, and uses his own time to delete all these messages unread. As senders get cleverer and cleverer at disguising their advertisements as personal mail, consumers must choose between spending more time glancing at this mail before deleting it or taking the risk of accidentally deleting important mail unread.

The current system makes the consumer pay almost 100% of the cost of advertising. Unlike bulk surface mail or telemarketing, the cost of sending does not increase with the number of people contacted. Large scale bulk electronic mail costs a tiny fraction of a cent per recipient. There is no incentive for them to restrict their usage because even if one person in a million responds, they have made many sales at a low cost.

But the recipients must examine and delete each message individually. Without opt-in, this process will grow and grow and grow. In the past year my unsolicited mail frequency has increased nearly 10-fold.

I cannot imagine what things will be like in another decade.

The current deluge of unsolicited commercial email is only the beginning. In the past year, my unsolicited commercial mail from non-opt-in lists has increased at least four-fold. In the past seven days I have recieved over 150 unsolicited commercial emails, more than half to my work address. Not only is this taking up my time to examine and discard, it costs my employer untold dollars each day as thousands of my fellow employees do the same.

Opt-out mailing systems cannot fix this. Only opt-in.

Yours,

Steven C. Simmons